

REMARKS

In the drawings

The drawings are objected to under 37 CFR 1.83(a). Replacement sheets are submitted herewith and Applicant respectfully requests that the replacement sheets submitted herewith be substituted for the originally submitted drawing sheets. The duplication of element "32" is herein corrected showing "vanes 32" renumbered as vanes "40." Examiner states that reference numeral "30" denotes different elements in Figs. 5-7. Applicant believes that use of reference numeral "30" is correct. Applicant does, however, recognize that the use of reference numeral "20" has been erroneously indicated and correction has been made in the replacement sheet. Applicant recognizes that the drawings remain "informal" and will prepare and submit formal drawings upon indication of allowable subject matter.

In the specification

The specification is objected to as failing to provide antecedent basis for the claimed subject matter. 37 CFR 1.75(d)(1). Examiner asserts that no proper antecedent basis exists for "parallel circular disc sides" set forth in claim 2. The term "parallel circular disc sides" is found in the specification at paragraph 29, fifth sentence, wherein is stated "The paddle wheel 12 comprises two essentially parallel circular disc sides..."

The Examiner further objects to the term "means for heating" found in claims 7 and 10. The specification at paragraph 25, last sentence states, "The water moving module can also comprise a heating element to provide warm

water over an extended period of time preventing the water from cooling during use." Claims 7 and 10 are cancelled. It is therefore requested that this ground for rejection be withdrawn.

The Examiner also objects to the terms "method" and "providing" set forth in claim 16. Claim 16 is cancelled. It is therefore requested that this grounds for objection be withdrawn.

In the claims

Claims 1-16 stand rejected under 35 USC 112, first paragraph as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to make and or use the invention.

Applicant respectfully disagrees with Examiner. First of all, Examiner states that the "water moving apparatus" set forth in claim 1 is neither disclosed nor evident to the examiner. The "outlet port" of the pump as illustrated in Fig. 1 does not appear capable of directing water toward the vanes." Since there was no Fig. 1 at the time of filing, applicant can only guess that Examiner is referring to another Figure. The outlet port 30 of pump 18 is shown in Figures 5 and 7. Figure 5 shows with arrows the direction of the flow of water from the outlet port 30 which impinges on the vanes 40(formerly32) causing them to rotate. Figure 5 shows a top view of the water moving module, and Figure 6 is a cross sectional view taken at plane A-A. Figure 7 is another top view taken at plane B-B of Figure 6. Figure 5 shows the flow of water from inlet 20 to outlet 30. Figure 6 shows inlet 20 clearly being below the plane of the paddle wheel 12, shown in Figure 7. Since the pump emits the water under pressure, the water moves out of outlet 30

and fills the compartment between the vanes and since the water continues to flow, causes the wheel to rotate. The force of the water hitting the vanes causes the paddle wheel to rotate.

Examiner states that the structure of the paddle wheel to enable it to rotate is not disclosed. At paragraph 29 Applicant clearly describes the structure of the paddle wheel comprising two essentially parallel disc sides and a plurality of vanes radially dispersed between the two disc sides perpendicular to the flow of water. When the water hits the vanes the paddle wheel turns. The paddle wheel is free floating and rotates by means of the motion of the water. This rotational motion is inherent in the nature of paddle wheels. Examiner has provided a page from the website of ITT industries describing one pump which Applicant indicated was suitable for use in the present invention. Applicant asserts that the particular pump identified by Examiner would in fact be suitable for use in the present invention.

Claims 7 and 10 stand rejected under 35 USC 112, first paragraph as containing subject matter which was not described in the specification. Claims 7 and 10 have been cancelled. It is therefore requested that this ground for rejection be withdrawn.

Claims 8 and 9 stand rejected under 35 USC 112, first paragraph as containing subject matter which was not described in the specification. Examiner asserts that implementation "plunger knob" 34 is not disclosed nor is evident. Plunger knob 34 is clearly illustrated in a variety of views in Figs. 2, 3, 5, 6 and 7. Paragraph 30 describes the operation of the plunger knob 34. "When plunger

knob 34 is pulled outward, toward the user, valve plate lifter 32 is raised, thus lifting the paddle wheel 12 permitting a steady flow of water to the nozzles. When plunger knob 34 is pushed in, it lowers the paddle wheel 12 resulting in the pulsating flow of water to nozzles 16..." Implementation of plunger knob 34 is clearly stated herein. Applicant respectfully requests that this ground for rejection be withdrawn. Valve plate lifter 32 is shown in Fig. 6 in phantom in its "up" position and in its "lowered" position. The mechanism of operation of the valve plate lifter is shown in Fig. 6

Examiner has indicated that nozzle 16 having an intake portion and an outlet portion is not disclosed nor is evident. Intake to nozzle 16 is outlet 30 from the pump. This can be seen in Fig. 7. Water goes into pump 18 through intake 20. Water then exits pump 18 through outlet 30. Outlet 30 from the pump is effectively nozzle intake. The outlet from the nozzle is shown by arrows in Fig. 7.

Examiner has recited the text from 35 USC 102(a). It is not clear if it was Examiner's intention to reject the claims based on 102(a). However, if it was Examiner's intention to make such a rejection Applicant would respond as follows: Examiner states at Page 6, last sentence of the Official Action that Kah Jr. is absent the recitation of a pump. Since rejection under 102(a) requires that every element of the claimed invention be present in the reference, and since the reference is absent the recitation of a pump, this ground of rejection should be withdrawn.

Claims 1, 4-6, 8, 9, 11, 12, 14 and 16 stand rejected under 35 USC 103(b) as being unpatentable over Kah, Jr.. et al, in combination with Kah Jr. Kah Jr. et


al relates to a sequencing valve designed to supply a plurality of outlets in sequence which is automatically responsive to the application and reduction in line pressure. (Col. 1, lines 30-33) The movement of the water in the present invention does not require or provide for application and reduction in line pressure, and therefore this reference is not pertinent and rejection should be withdrawn. Combining Kah Jr. et al with Kah Jr. does not rectify this deficiency. The Kah references also are directed to a sequencing valve intended for use with a plurality of outlets in sequence. This is very different from the water moving apparatus of the present invention. In the present invention the water reaches both nozzles simultaneously.

Applicants respectfully disagree with Examiner's assertion that the functional implications relative to the use of the water moving apparatus incorporated in a foot bath do not render the invention patentably distinct from Kah and Kah Jr. It is the intention of Kah and Kah Jr. to provide a sequencing valve useful for providing intermittent flow to a plurality of outlets in sequence by use of intermittent inlet flow. The water moving apparatus of the present invention by contrast, provides for continuous, pulsating flow, not intermittent flow. In the present invention, the flow is interrupted in the water moving apparatus but the resultant flow to the nozzles is never interrupted because the entire water moving apparatus is submerged and the water is recirculated. The interrupted flow in the water moving apparatus creates a pulsating effect of water exiting the nozzles in the foot bath.

It is believed that these corrections, amendments and explanations render this application in condition for allowance and early and favorable notification of the same is earnestly solicited. Examiner is invited to contact Applicant's undersigned agent at the phone number and address listed below if any questions arise concerning the prosecution of this application.

Respectfully submitted,

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